

BEFORE THE DEPARTMENT OF JUSTICE
OF THE STATE OF MONTANA

In the matter of the adoption of NEW RULE I) NOTICE OF ADOPTION
-accounting system vendor license fee; NEW) AND AMENDMENT
RULE II-general specifications of approved)
automated accounting and reporting)
systems; NEW RULE III-modification of)
approved automated accounting and)
reporting systems; NEW RULE IV-system)
may not be utilized for player tracking; NEW)
RULE V-testing of automated accounting)
and reporting systems; NEW RULE VI-)
application to utilize an approved system;)
NEW RULE VII-continuation of use of)
when vendor license lapses; and the)
amendment of ARM 23.16.101, 23.16.102,)
23.16.1911, and 23.16.1918, concerning)
definitions for vendors and system licensing)
of system vendors, information to be)
provided to department, and testing fees)

TO: All Concerned Persons

1. On May 18, 2006, the Department of Justice published MAR Notice No. 23-16-177 regarding the public hearing on the proposed adoption and amendment of the above-stated rules at page 1206, 2006 Montana Administrative Register, Issue Number 10.

2. The Department of Justice has adopted New Rules III (23.16.2111), IV (23.16.2115), V (23.16.2109), VI (23.16.2107), and VII (23.16.2113) as proposed, and amended ARM 23.16.101, 23.16.102, 23.16.1911, and 23.16.1918 exactly as proposed.

3. The department adopts the remaining rules with the following changes, stricken matter interlined, new matter underlined:

NEW RULE I (23.16.1916A) ACCOUNTING SYSTEM VENDOR LICENSE

(1) through (1)(e) remain as proposed.

(i) ~~\$1,000~~ \$500 annual license fee; and

(ii) through (3) remain as proposed.

NEW RULE II (23.16.2105) GENERAL SPECIFICATIONS OF APPROVED AUTOMATED ACCOUNTING AND REPORTING SYSTEMS (1) Each automated accounting and reporting system must be inspected ~~in the state~~ for approval by the department. The department may inspect any approved automated accounting and reporting system sold or operated in the state. Any approval granted by the

department to a person is not transferable. Upon request, the department must be allowed immediate access to an approved accounting and reporting system.

(2) through (2)(a) remain as proposed.

(i) ~~at a minimum~~ an approved tier I system shall communicate the following information to the department:

(a)(i)(A) through (I) remain as proposed.

(J) soft meter total cents in, total cents played, total cents won, total cents paid;

~~(K) number of games played;~~

~~(L) number of games won; and~~

(M) remains the same but is renumbered (K).

(a)(ii) through (iv) remain as proposed.

~~(v) a list of events required to be reported to the department is available from the gambling control division.~~ the following events must be recorded and reported:

(A) slot door opened;

(B) slot door closed;

(C) drop door opened;

(D) drop door closed;

(E) card cage opened;

(F) card cage closed;

(G) AC power applied to the VGM;

(H) AC power was lost from the VGM;

(I) cashbox door opened;

(J) cashbox door was closed;

(K) cashbox removed;

(L) cashbox installed;

(M) belly door opened;

(N) belly door closed;

(O) operator changed configuration options; and

(P) soft meter reset to zero.

(b) through (6) remain as proposed.

4. A public hearing was held on June 8, 2006. The following comments were received and appear with the Department of Justice's responses.

Proposed Rule I:

Comment 1: Written testimony from Rich Miller, executive director, Gaming Industry Association of Montana, Inc. (GIA), and oral testimony from Ronda Wiggers, Montana Coin Machine Operators Association (MCMOA), was given to the effect that the \$1,000 annual license fee may be expensive for small vendors.

Response 1: The division will reduce the annual license fee to \$500.

Proposed Rule II:

Comment 2: Written testimony from Rich Miller and oral testimony from Ronda Wiggers was received that the systems must be in the state to be tested.

Response 2: The phrase "in the state" will be eliminated. The language was copied from the video gambling machine testing requirements. If testing is to require out of state travel, the expenses will be added to the costs of testing.

Comment 3: Written testimony from Rich Miller and oral testimony from Ronda Wiggers was received that language related to approval of an accounting system "to a person" not being transferable was confusing.

Response 3: The intent of this rule is to assure that the new vendor of an approved system has the resources, technical skill, and ability to operate and maintain the system.

Comment 4: Written testimony from Rich Miller and oral testimony from Ronda Wiggers was provided that the phrase "at a minimum" created some confusion about the actual requirements for the information to be communicated by a tier I system.

Response 4: The division has determined that the phrase "at a minimum" can be eliminated without changing the substance of the proposed rule.

Comment 5: Written testimony was received from Rich Miller that the department lacks implementation authority to require that tier I systems report "games played" and "games won."

Response 5: The department believes that implementation authority is found in 23-5-621(1)(e), MCA, 23-5-637(1), MCA, and 23-5-610(3), MCA. However, the division will modify the rule to not require the information.

Comment 6: Written testimony was received from Rich Miller that there is no necessity to have tier I accounting systems monitor video gambling machine performance and events. A related concern was that the SAS Serial Protocol Implementation Guide was not available on the department website.

Response 6: This rule is central to the entire streamlining of the accounting system; by recording all events on a tier I accounting system, the need for physical records can be reduced and the entire tax reporting system can be streamlined. The necessity for this rule is found in 23-5-637, MCA. The SAS Serial Protocol Implementation Guide will be posted on the department website.

Comment 7: Written testimony was received from Rich Miller that the division should not refer to a "list of events" to be reported but rather the specific events should be adopted in rule.

Response 7 The department will modify the proposed rule to include the list of events.

Comment 8: Oral testimony from Ronda Wiggers raised concerns about the requirement that tier I systems be required to have power from two sources.

Response 8: The requirement is needed to maintain electrical independence from the video gambling machines power source so that the accounting system does not interfere with the operation or warranty of the video gambling machine.

Proposed Rule IV:

Comment 9: Written testimony was received from Rich Miller that indicates that the proposed rule on player tracking is more restrictive than the following statutory language in 23-5-621(1)(e)(i), MCA:

"specify that the data made available as a result of an approved automated accounting and reporting system may not be used by licensees for player tracking purposes."

Response 9: The proposed rule directly implements the statute. The rule provides:

"(2) An automated accounting and reporting system may not record or communicate the identity of individual players, club membership or characteristics of players."

Comment 10: Comments and questions were raised by Rich Miller, Mark Staples (Montana Tavern Association), and Mike Kenneally (Lucky Lil's) regarding merging data from an approved automated accounting and reporting system with other data such as player rewards data.

Response 10: The statute clearly provides that data from an automated accounting and information system may not be used for player tracking.

Proposed Rule V:

Comment 11: Written comments were provided by Rich Miller that question reference to ARM 23.16.2102.

Response 11: The proposed rule refers to the proposed numbering of New Rule II. The final rule will utilize ARM 23.16.2105.

Comment 12: Ronda Wiggers orally expressed concerns that tier II systems are required to record and communicate complex transactions which have not been specifically defined.

Response 12: Testing of the tier II systems will require the systems to be able to record and communicate transactions that can be expected to occur in the day-to-day business of gambling operator. Examples of transactions may include: reporting from two locations in a 24 hour period if a machine is moved; or, reports negative income for a quarter.

Proposed Rule VI:

Comment 13: Oral comments by Ronda Wiggers indicate a concern that the 60-day lead time for applying to utilize an approved automated accounting and reporting system might conflict with the 90-day notice provision in ARM 23.16.2101.

Response 13: The division agrees that this time period needs clarification. The division will propose an amendment to ARM 23.16.2101 to establish that the 90-day notice will be given prior to "application date" rather than the connection date. This will result in a period of 150 days from the time an operator receives notice to connect as provided in the multi-game agreement, and the date the accounting system will be put into service.

Proposed Rule VII:

Comment 14: Written testimony was received from Rich Miller that indicates this rule should be interpreted to allow a user of a tier II reporting system which becomes obsolete or noncompliant to convert to the department's web entry system.

Response 14: The department agrees with this interpretation. The rule is intended to allow the gambling operator to convert to any approved system, including the department web entry system.

By: /s/ Mike McGrath
MIKE McGRATH
Attorney General
Department of Justice

/s/ Jon Ellingson
JON ELLINGSON
Rule Reviewer

Certified to the Secretary of State June 26, 2006.